



1 SAFEGUARD PROPERTIES, LLC; ADAM )  
FENN; EARL BEUTLER; EVE BEUTLER; )  
2 DOES I-XX and ROE CORPORATIONS I-XX, )  
inclusive, )  
3 )  
Defendant. )

4  
5 **DEFENDANT SAFEGUARD PROPERTIES LLC'S ANSWER**  
6 **TO PLAINTIFF'S AMENDED COMPLAINT**

7 Defendant, SAFEGUARD PROPERTIES, LLC ("Safeguard") by and through its counsel  
8 Jack P. Burden, Esq., of BACKUS, CARRANZA & BURDEN hereby files its Answer to Plaintiff  
9 MICHAEL HARKEY's Amended Complaint on file herein, admitting, denying and alleging as  
10 follows:

11 1. Defendant denies each of the allegations contained within the Amended Complaint  
12 unless admitted to or more specifically plead to below.

13 2. In answering paragraphs 1 and 2 of Plaintiff's Amended Complaint, this answering  
14 Defendant states that it is without sufficient knowledge or information necessary to form a belief  
15 as to the truth or falsity of the allegations contained therein, and upon said grounds denies the  
16 same.

17 3. In answering paragraphs 3, 4, 5, 6, 7, 8, 9, 10 (a)-(e), 11, 12, 13, 14, 15, 16, 17, 18,  
18 19, 20, 21, 22, 23, 24 25, 26, 27, 28 and 29, this answering Defendant states Defendant states that  
19 the allegations contained in said paragraphs are not directed to this answering Defendant and  
20 therefore it makes no answer thereto. However, if an Answer is required Defendant states that it is  
21 without sufficient knowledge or information necessary to form a belief as to the truth or falsity of  
22 the allegations contained therein, and upon said grounds denies the same.

23 4. In answering paragraph 22 Defendant admits it is a limited liability company  
24 registered in the State of Delaware and registered to do business in the State of Nevada; Defendant  
25 however denies the remaining allegations.

**RESERVATION OF RIGHTS TO AMEND AND SUPPLEMENT**

5. In answering paragraph 30 of Plaintiff's Amended Complaint, this answering Defendant states that it is without sufficient knowledge or information necessary to form a belief as to the truth or falsity of the allegations contained therein, and upon said grounds denies the same.

**JURISDICTION AND VENUE**

6. In answering paragraphs 31 and 32 this answering Defendant states that it is without sufficient knowledge or information necessary to form a belief as to the truth or falsity of the allegations contained therein, and upon said grounds denies the same.

**FACTS COMMON TO ALL CAUSES OF ACTION**

7. In answering paragraphs 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102 and 103 this answering Defendant denies the allegations contained therein specifically against it; as to the remaining allegations against other parties named, this answering Defendant states that it is without sufficient knowledge or information necessary to form a belief as to the truth or falsity of the allegations contained therein, and upon said grounds denies the same.

**COUNT ONE**

8. In answering paragraph 104 of Plaintiff's Amended Complaint, Defendant re-states and re-alleges each and every allegation, admission and denial previously set forth in this answer and incorporates the same herein by reference.

9. In answering paragraphs 105 (a)-(f), 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117 and 118 this answering Defendant denies the allegations contained therein specifically against it; as to the remaining allegation against other parties this answering

1 Defendant states that it is without sufficient knowledge or information necessary to form a belief  
2 as to the truth or falsity of the allegations contained therein, and upon said grounds denies the  
3 same.

4 **COUNT TWO**

5 10. In answering paragraph 119 of Plaintiff's Amended Complaint, Defendant re-states  
6 and re-alleges each and every allegation, admission and denial previously set forth in this answer  
7 and incorporates the same herein by reference.

8 11. In answering paragraph 120, 121, 122, 123,124 and 127 this answering Defendant  
9 denies the allegations contained therein specifically against it; as to the remaining allegation  
10 against other parties this answering Defendant states that it is without sufficient knowledge or  
11 information necessary to form a belief as to the truth or falsity of the allegations contained therein,  
12 and upon said grounds denies the same.

13 12. In answering paragraphs 125,126, 128, 129, 130 and 131 this answering Defendant  
14 denies the allegations contained therein.

15  
16 **COUNT THREE**

17 **A. Violations of Civil Rights Under 42 USC sec. 1983 and**  
18 **B. Proposed Limited Class Action Under F.R. Civ. P. 23**

19 13. In answering paragraph 132 of Plaintiff's Amended Complaint, Defendant re-states  
20 and re-alleges each and every allegation, admission and denial previously set forth in this answer  
21 and incorporates the same herein by reference.

22 14. In answering paragraphs 133,134, 135, 136, 137, 138 and 139 this answering  
23 Defendant denies the allegations contained therein specifically against it; as to the remaining  
24 allegation against other parties this answering Defendant states that it is without sufficient  
25 knowledge or information necessary to form a belief as to the truth or falsity of the allegations

1 contained therein, and upon said grounds denies the same.

2 **COUNT FOUR**

3 **Common Law Fraud and Request for Declaratory Judgment Quieting Title to 220 Village**  
4 **Walk Drive, Unit 3315, Henderson, Nevada 89052**

5 15. In answering paragraph 140 of Plaintiff's Amended Complaint, Defendant re-states  
6 and re-alleges each and every allegation, admission and denial previously set forth in this answer  
7 and incorporates the same herein by reference.

8 16. In answering paragraphs 141,142, 143, 144, 145, 146, 147, 148, 149 and 150 this  
9 answering Defendant denies the allegations contained therein specifically against it; as to the  
10 remaining allegation against other parties this answering Defendant states that it is without  
11 sufficient knowledge or information necessary to form a belief as to the truth or falsity of the  
12 allegations contained therein, and upon said grounds denies the same.

13 **COUNT FIVE**

14 **Quiet Title: Defendants Acted Outside Scope of NRS 107.080**

15 17. In answering paragraph 151 of Plaintiff's Amended Complaint, Defendant re-states  
16 and re-alleges each and every allegation, admission and denial previously set forth in this answer  
17 and incorporates the same herein by reference.

18 18. In answering paragraphs 152,153, 154, 155, 156, 157, 158 and 159 this answering  
19 Defendant denies the allegations contained therein specifically against it; as to the remaining  
20 allegations against other parties this answering Defendant states that it is without sufficient  
21 knowledge or information necessary to form a belief as to the truth or falsity of the allegations  
22 contained therein against other parties, and upon said grounds denies the same.

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**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

This answering Defendant alleges that Plaintiff has failed to state a claim upon which relief maybe granted.

**SECOND AFFIRMATIVE DEFENSE**

This answering Defendant alleges that it has acted at all times in good faith under the alleged loss.

**THIRD AFFIRMATIVE DEFENSE**

This answering Defendant alleges that Plaintiff has failed to name a party necessary for full and adequate relief essential in this action.

**FOURTH AFFIRMATIVE DEFENSE**

This answering Defendant's actions or lack of actions did not violate any State or Federal laws.

**FIFTH AFFIRMATIVE DEFENSE**

Plaintiff's claim under 18 USC sec. 1961, et seq., lacks any evidence of proximate causation.

**SIXTH AFFIRMATIVE DEFENSE**

Plaintiff comes to this Court with unclean hands.

**SEVENTH AFFIRMATIVE DEFENSE**

Plaintiff has failed to mitigate his damages.

**EIGHTH AFFIRMATIVE DEFENSE**

Plaintiff's alleged damages are barred as they were not proximately caused by this answering Defendant.

**NINTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred in whole or in part by the statute of limitations.

**TENTH AFFIRMATIVE DEFENSE**

Plaintiff's damages, if any, incurred by Plaintiff is not attributable to any act, conduct or omission on the part of this Defendant.

**ELEVENTH AFFIRMATIVE DEFENSE**

Any and all damages allegedly incurred by Plaintiff were proximately caused by third persons over whom Defendant has no authority or control.

**TWELFTH AFFIRMATIVE DEFENSE**

This answering Defendant alleges that the damages, if any, to Plaintiff was, as alleged in the Amended Complaint, proximately caused by a new, independent and efficient intervening cause and not by any alleged actions or omissions on the part of this answering Defendant.

**THIRTEENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims for relief are barred under the doctrine of laches.

**FOURTEENTH AFFIRMATIVE DEFENSE**

Plaintiff's proposed Class Action for limited Relief may not be maintained pursuant to Rule 23 of the Federal Rules of Civil Procedure.

**FIFTEENTH AFFIRMATIVE DEFENSE**

Defendant's actions pertaining to the subject property were lawful and justified.

**SIXTEENTH AFFIRMATIVE DEFENSE**

Defendant incorporates and adopts by reference all applicable affirmative defenses pleaded by other named defendants not expressly set forth.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

This answering Defendant alleges that punitive and/or exemplary damages are not recoverable against the answering Defendant as no facts exist to support the allegation that

1 Defendants were guilty of malice, recklessness, oppression and fraud.

2 **EIGHTEENTH AFFIRMATIVE DEFENSE**

3 This answering Defendant hereby incorporates by reference those affirmative defenses  
4 enumerated in Rule 8 of the Federal Rules of Civil Procedure as if fully set forth herein. In the  
5 event further investigation or discovery reveals the applicability of any such defenses, this  
6 answering Defendant reserves the right to seek leave of court to amend this Answer to the  
7 Complaint to specifically assert any such defense. Such defenses are herein incorporated by  
8 reference for the specific purpose of not waiving any such defenses.

9 **NINETEENTH AFFIRMATIVE DEFENSE**

10 Pursuant to Rule 11 of the Federal Rules of Civil Procedure, all possible affirmative  
11 defenses may not have been alleged herein insofar as sufficient facts were not available after  
12 reasonable inquiry upon filing of this Answer to the Complaint, and therefore this answering  
13 Defendant reserves its right to amend this Answer to the Complaint as additional information  
14 becomes available.

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1 WHEREFORE, Safeguard Properties, LLC prays for Judgment as follows:

- 2 1. That Plaintiff takes nothing by virtue of this action and that same be dismissed with  
3 prejudice;
- 4 2. For attorneys' fees and costs incurred herein; and
- 5 3. For such other and further relief as the Court may deems fit and proper.

6 DATED this 22<sup>nd</sup> day of July, 2014.

7 Respectfully Submitted,

8 **BACKUS, CARRANZA & BURDEN**

9  
10 By: /s/ Jack P. Burden  
11 Jack P. Burden, Esq.  
12 3050 South Durango Drive  
13 Las Vegas, NV 89117  
14 Attorneys for *Safeguard Properties, LLC*  
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**CERTIFICATE OF SERVICE**

I am a resident of and employed in Clark County, Nevada. I am over the age of 18 years and not a party to the within action. My business address is: 3050 South Durango Drive, Las Vegas, Nevada, 89117.

On July 22, 2014, I served this document on the parties listed on the attached service list via one or more of the methods of service described below as indicated next to the name of the served individual or entity by a checked box:

**VIA U.S. MAIL:** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada. I am "readily familiar" with the firm's practice of collection and processing correspondence by mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage fully prepaid at Las Vegas, Nevada in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

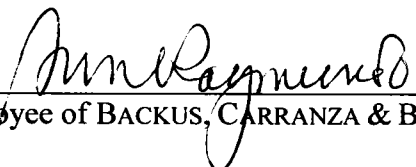
**VIA FACSIMILE:** by transmitting to a facsimile machine maintained by the attorney or the party who has filed a written consent for such manner of service.

**BY PERSONAL SERVICE:** by personally hand-delivering or causing to be hand delivered by such designated individual whose particular duties include delivery of such on behalf of the firm, addressed to the individual(s) listed, signed by such individual or his/her representative accepting on his/her behalf. A receipt of copy signed and dated by such an individual confirming delivery of the document will be maintained with the document and is attached.

**BY E-MAIL:** by transmitting a copy of the document in the format to be used for attachments to the electronic-mail address designated by the attorney or the party who has filed a written consent for such manner of service.

**BY CM/ECF SYSTEM:** by transmitting via the United States District Court's CM/ECF System to the following individuals for which such service is designated on the Service List.

I declare that under penalty of perjury under the laws of the State of Nevada that the above is true and correct. I further declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

  
An employee of BACKUS, CARRANZA & BURDEN

**SERVICE LIST**

<b>ATTORNEYS OF RECORD</b>	<b>PARTIES REPRESENTED</b>	<b>METHOD OF SERVICE</b>
Mitchell Posin, Esq. LAW OFFICES OF MITCHELL POSIN, CHTD. 1645 Village Center Circle, Suite 200 Las Vegas, NV 89101 Tel: 702/382-2222 Fax: 702/382-7496 <a href="mailto:mposin@gmail.com">mposin@gmail.com</a>	Plaintiff	<input type="checkbox"/> Personal service <input type="checkbox"/> Email service <input type="checkbox"/> Fax service <input type="checkbox"/> Mail service <input checked="" type="checkbox"/> CM/ECF